IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF DECEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE G. BIKSHAPATHY

And
THE HON'BLE MR JUSTICE P.S.NARAYANA

WRIT PETITION NO : 17265 of 2004

AND

WRIT PETITION NO : 17252 of 2004

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WRIT PETITION NO : 17252 of 2004

Between:

K.Ramesh, S/o.K.Rama Chandraiah,
O/o. The Principal, APSW., Residential School (Boys),
Madanapuram, Mahaboobnagar Dist.

..... PETITIONER

AND

1 Andhra Pradesh Public Service Commission rep. by its secretary, Gruhakalpa, Nampally Station Road, Hyderabad.
2 The Govt. of A.P., rep.by its Prl.Secretary, Social Welfare Department, Secretariat, Hyderabad.
3 The Commissioner of Social Welfare, Andhra Pradesh, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.
4 The Commissioner of Backward Class Welfare, Andhra Pradesh, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.
5 The Director, Govt. Printing Press, Chanchalguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ order or direction, more particularly one in the nature of writ of certiorari by : A) calling for the records relating to and connected with the order and judgment

rendered in O.A.No.3686 of 1999, dated 25-08-2004 on the file of Hon'ble A.P.Administrative Tribunal by holding the same as erroneous and unsustainable; B) also call for records relating to and connected with the impugned notification of the 1st respondent dated 27-05-1998 published at page No.1053 of A.P.Gazette No.21, dated 18-06-98 and released for sale sometime in January 1999 and quash or set aside by holding the same as arbitrary, illegal and violative of principles of natural justice.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.1: MR.M.VIJAY KUMAR, STANDING COUNSEL FOR APPSC.

COUNSEL FOR THE RESPONDENTS 2 TO 5: G.P.FOR SERVICES-I.

WRIT PETITION NO : 17265 of 2004

Between:

N. Yadaiah, S/o. Sri Nagaiah,
O/o. Principal, A.P.Social Welfare Residential School for Girls / Junior College, Mahboobnagar, R/o. Mahboobnagar, Mahboobnagar District.

..... PETITIONER

AND

1 Andhra Pradesh Public Service Commission Rep. by its Secretary, Gruhakalpa, Nampally Station Road, Hyderabad.
2 The Commissioner of Social Welfare, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.
3 The Director, Government Printing Press, Chanchalguda, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction, more particularly one in the nature of Writ of Certiorari by: (A) Calling for the records relating to and connected with the order and judgment rendered in O.A.No.3340 of 1999 dated 25-08-2004 on the file of Hon'ble A.P. Administrative Tribunal by holding the same as erroneous and unsustainable; (B) Also call for records relating to and connected with the impugned notification of the 1st respondent dated 27-05-1998 published at Page No.1053 of A.P. Gazette No.21, dated 18-06-1998 and released for sale sometime in January 1999 and quash or set aside by holding the same as arbitrary, illegal and violative of Principles of natural justice.

Counsel for the Petitioner: MR.NUTY RAM MOHAN RAO

Counsel for the Respondent No.1: MR.M.VIJAY KUMAR, STANDING COUNSEL FOR APPSC.

COUNSEL FOR RESPONDENTS 2 to 5: G.P. FOR SERVICES-I.

The Court made the following:

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COMMON ORAL JUDGMENT: (per GB.J.)

Both the Writ Petitions can be disposed of by a common order.

2. The errata was published by Andhra Pradesh Public Service Commission (APPSC) after a long lapse of time, i.e., nearly after two decades. The petitioners, having been affected by the said errata, filed OA.Nos.3340 and 3686 of 1999 respectively before A.P. Administrative Tribunal (for short Tribunal). The learned Tribunal, after considering the matter, dismissed the above O.As. Against which, the present Writ Petitions have been filed.

3. To trace out the history of this matter is that the petitioners were initially appointed as Typist and LDC respectively in the Office of Social Welfare at Mahabubnagar. Thereafter, they appeared for the Accounts Test for Subordinate Officers Part-I in May, 1982. Subsequently, a Gazette Notification dated 18.6.1998 has been published to the effect that they passed the said test. The petitioners were promoted as Senior Assistants in 1982 and 1984 respectively. Thereafter they were also further promoted as Superintendents in 1986 and they are presently working in the said capacity. It appears that an anonymous complaint was made against the petitioners to the effect that they in fact did not pass the Accounts test and therefore their promotion to the posts of Senior Assistant and further promotion to the post of Superintendent is illegal and hence necessary action should be taken against them. On the said complaint, correspondence was entered into between the Department and APPSC and ultimately after necessary enquiry the APPSC has issued an

Errata to the Gazette Notification published on 26.8.1982, which is having been effected to the deletion of the hall ticket Nos.13863 and 13741 in respect of these two petitioners. The errata was published in the Gazette dated 27.5.1998 Aggrieved by the said order, they approached the Tribunal unsuccessfully and therefore the present Writ Petitions have been field by them.

4. The learned counsel for the petitioners submit that as far as the petitioners are concerned they are only concerned with the declaration of the results having been published in the Gazette and they are nothing to do as to what happens in the APPSC and the other Departments. Since their result was declared and the same was published in the official Gazette, they shall be deemed to have been passed the test and consequently they were promoted to the higher posts.

5. The learned Standing Counsel for APPSC produced the original records before this Court and submits that though the petitioners did not pass the Accounts Test held on 8.5.1982, their roll numbers were published in the Gazette as having been passed. It is also admitted by him that the Gazette notification was verified by the concerned Officer and it was certified that the list was in accordance with the roll numbers sent by APPSC, but in fact that was not inconsonance with the roll numbers. Having enquired into the matter by the police, it is brought to the notice of APPSC that these petitioners did not in fact pass the test and therefore an errata was issued and hence such an errata cannot be said to be either illegal or contrary to law.

6. On the other hand the learned Government Pleader for Services-I submits that since the errata has been issued, the petitioners cannot continue as Superintendents or Senior Assistants as their very promotion to the post from LDC to Senior Assistant is illegal and contrary to the rules.

7. The question that falls for consideration is whether the errata as issued by APPSC is justified at this belated stage.

8. We have already called for the original records from APPSC and the said original records reveal that the roll numbers of the petitioners do not figure in the list of successful candidates list which was sent to the Press for publishing Gazette Notification. However, in the Gazette notification these two roll

numbers were also printed as having been passed the test. It also could be ruled out if any other roll numbers were added. It is incumbent on the part of APPSC to verify whether in fact the numbers which were sent for Gazette Notification have been published or other numbers also included or deleted, but it appears that the official who dealt with the matter has certified that the numbers as sent by APPSC were only published in the Gazette Notification and therefore no action was taken. This clandestine act was not cross-checked by the officers and this paved the way for this irregularity. But it came to light after a long lapse of 17 years when a complaint was received in this regard. It is neither the case of the Government nor APPSC that the petitioners colluded with the officers of either at the Government level or with APPSC so as to get their names included in the Gazette. In such a situation, the petitioners cannot be blamed for the negligence or inaction on the part of the authorities more especially on the part of the officers of APPSC. Had APPSC officers verified the roll numbers, which were sent for Gazette Notification after the Gazette has been issued, this situation would not have happened. Therefore APPSC has to take the major blame itself for this situation. Even now it is not their case that inquiry was ordered as to under what circumstances the additional roll numbers came to be published in the Gazette. Hence we find the petitioners cannot be found fault with.

9. The factual matrix as applying today is that even though the petitioners have not passed in the examination in 1982, yet the fact remains that they were promoted to the post of Senior Assistants and they are further promoted as Superintendents as early as 1986 and at this distance of time it is inappropriate to unsettle the things which were already settled long ago and it would affect the service career of the employees more especially when the fault is not on their part. Under those circumstances, we find that publishing of errata after nearly two decades is wholly illegal, arbitrary and unwarranted.

10. Though the promotion of the petitioners as Senior Assistants could not have been done since they did not pass the test, on account of the Gazette Notification only they were promoted and at this point of time it is not proper to direct the petitioners to pass the test again as it may create complications in many respects.

11. For the foregoing discussion, the Writ Petitions are liable to be allowed.

12. In the result, both the Writ Petitions are allowed, orders in OA.Nos.3340 and 3686 of 1999 are set aside and the impugned errata is quashed. No costs.

(G.BIKSHAPATHY, J.)

2nd December, 2004.

(P.S.NARAYANA, J.)

SSR

To

1 The Secretary, Andhra Pradesh Public Service Commission, Gruhakalpa, Nampally Station Road, Hyderabad.
2 The Principal Secretary, Govt. of A.P., Social Welfare Department, Secretariat, Hyderabad.
3 The Commissioner of Social Welfare, Andhra Pradesh, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.
4 The Commissioner of Backward Class Welfare, Andhra Pradesh, Telugu Sankshema Bhavan, Masab Tank, Hyderabad.
5 The Director, Govt. Printing Press, Chanchalguda, Hyderabad.

6 2 CCS to G.P. for Services-I, High Court of A.P. (OUT).

7 2 CD copies.